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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

CAROLE MARASOVIC, individually and
as administrator of the estate of Elizabeth
L. Marasovic,

Plaintiff - Appellant,

v.

CONTRA COSTA COUNTY ADULT
PROTECTIVE SERVICES; et al.,

Defendants - Appellees.

No. 06-15579

D.C. No. CV-04-04141-VRW

MEMORANDUM *

Appeal from the United States District Court
for the Northern District of California
Vaughn R. Walker, District Judge, Presiding

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Carole Marasovic appeals pro se from the district court's judgment
dismissing her 42 U.S.C. § 1983 action as time-barred. We have jurisdiction

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

pursuant to 28 U.S.C. § 1291. The district court’s decision whether to apply equitable tolling is reviewed for abuse of discretion. *See Jones v. Blanas*, 393 F.3d 918, 926 (9th Cir. 2004). We affirm.

The district court correctly determined that Marasovic was not entitled to equitable tolling of the statute of limitations, because she did not diligently pursue her initial action against the defendants. *See Wood v. Elling Corp.*, 572 P.2d 755, 758 (Cal. 1977) (“[A] party cannot deduct from the period of the statute of limitations applicable to his case the time consumed by the pendency of an action in which he sought to have the matter adjudicated, but which was dismissed”); *Hull v. Central Pathology Serv. Med. Clinic*, 34 Cal. Rptr. 2d 175, 180 (Cal. Ct. App. 1994) (holding that statute of limitations was not equitably tolled because plaintiff did not diligently pursue claims).

Marasovic’s equitable estoppel claim fails because she did not claim that opposing counsel intentionally misled her. *See City of Goleta v. Superior Court*, 147 P.3d 1037, 1042 (Cal. 2006) (“[The doctrine of equitable estoppel] provides that a person may not deny the existence of a state of facts if he intentionally led another to believe a particular circumstance to be true and to rely upon such belief to his detriment.”) (quotation marks and citation omitted).

We do not consider Marasovic's argument concerning her former counsel's role in failing to prosecute her initial federal action, because Marasovic did not raise that argument in the district court. *See Scott v. Ross*, 140 F.3d 1275, 1283 (9th Cir. 1998) ("Generally, we do not consider issues raised for the first time on appeal.")

Marasovic's motion to file a late reply brief is granted. The Clerk shall file the reply brief received on March 26, 2007. We have considered the arguments raised on reply and find them unpersuasive. Appellant's motions to supplement the record and for judicial notice are denied.

AFFIRMED.